



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Quality Construction

File: B-224021.2

Date: October 24, 1986

DIGEST

Protest initially filed with contracting agency is dismissed as untimely when filed with General Accounting Office (GAO) more than 10 working days after the protester has received notice of adverse agency action. Protester's continued pursuit of the protest with the contracting agency, resulting in a subsequent letter from agency repeating grounds for denial, neither extends the time for filing a protest with GAO, nor provides a new basis for protest.

DECISION

Quality Construction (Quality) protests the award of a contract to American Contracting, Inc. (American Contracting), under solicitation No. 6-SI-60-01840/DC-7672 issued by the Department of the Interior. Quality, the second low bidder, asserts that the payment and performance bond sureties under the awardee's bid were inadequate and, therefore, the bid should have been rejected.

We dismiss the protest as untimely.

Bid opening occurred on May 6, 1986. Quality protested the allegedly inadequate sureties to the contracting officer who denied Quality's protest on June 13, and awarded the contract to American Contracting on July 25. Quality filed a protest with our Office on August 28, alleging that the awardee's sureties were inadequate. By notice dated the same day, we dismissed Quality's protest as untimely under our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(3) (1986), which provide that a protest initially filed with the contracting agency is untimely when filed in our Office more than 10 working days after the protester has actual or constructive knowledge of the initial adverse agency action.

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Quality filed this current protest in our Office on October 22, raising the same allegation concerning the allegedly inadequate sureties. Now, Quality has included a letter from Interior dated October 16, in which the contracting officer advises that GAO has dismissed the protest, and states that the sureties were found to be adequate and that contract performance is being continued. Quality characterizes its protest as being based on this letter. We disagree.

Quality does not raise any new issues on the basis of information first provided in the agency's October 16 letter. Rather, this letter primarily clarified the status of the contract award. Moreover, after the agency's initial adverse action--here consisting of the denial of Quality's protest and the award of the contract to American Contracting--the protester's apparent continued pursuit of the matter with the agency, resulting in the October 16 letter, does not extend the time for protesting in our Office. Elbert Transfer Co.--Request for Reconsideration, B-222934.2, May 27, 1986, 86-1 C.P.D. ¶ 489.

The protest is dismissed.



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